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Letter dated 15 November 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 19 October 2004 (S/2004/847). The Counter-Terrorism Committee has received the attached fourth report from Yemen submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 11 November 2004 from the Permanent Mission of Yemen to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Yemen to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to enclose herewith the latest report of the Government of the Republic of Yemen pursuant to paragraph 6 of resolution 1373 (2001) (see enclosure).

Enclosure

[Original: Arabic]

1. Implementation measures

Criminalization of terrorist acts and their financing and measures aimed at preventing the financing of terrorism

Response to paragraph 1.1

For a response to this paragraph, the Committee may consult the response to paragraph 1.4 of this report, where it is mentioned that, unlike the case of money-laundering, it is not necessary for the funds used for terrorist financing to be the proceeds of illicit acts, nor is it necessary for the funds to have been laundered, etc. Similarly, funds which a person obtains from a foreign State or an organization or gang for kidnapping, hijacking or hostage-taking purposes need not be the product of illicit acts or money-laundering. The Act considers such funds as involving crimes of money-laundering if a crime of kidnapping, hijacking or hostage-taking is committed or the intention to commit such acts exists, regardless of the source of the funds, so long as such funds are used for the purpose of committing criminal acts.

We believe this feature is exclusive to Yemeni law, since it has not been found in any other law.

Response to paragraph 1.2

The three conventions, namely, (i) the Convention on the Marking of Plastic Explosives for the Purpose of Detection, (ii) the International Convention for the Suppression of the Financing of Terrorism and (iii) the Convention on the Physical Protection of Nuclear Materials, are still under consideration by Parliament with a view to their approval, preliminary to the adoption of a legislative decree concerning their ratification once the Government has approved them.

Response to paragraph 1.3

The remaining conventions which have been approved by the Government of Yemen and to which it has pledged to accede are still being considered by Parliament with a view to their approval based on article 92 of the Constitution. The Committee will be notified once the Constitutional procedures have been completed.

Providing the Committee with copies of bilateral treaties requires obtaining the approval of the other party.

Response to paragraph 1.4

Under article 17 of Act No. 35 of 2003 on combating money-laundering, the Anti-Money-Laundering Committee may, on the basis of a judicial decision rendered in another State, request the Yemeni judicial authorities, under a bilateral convention governing such matters and in accordance with the laws in force, to trace, freeze or seize funds, property and related earnings connected with money-laundering offences. The judicial authorities shall be required to issue a decision concerning the request.

Under articles 36 and 37 of the (draft) regulation for the implementation of the Anti-Money-Laundering Act, the Committee may, under a bilateral cooperation agreement, on the basis of a request by the competent foreign authority founded on a final judicial decision rendered by the competent court in the requesting State, request the Public Prosecutor, in accordance with the laws in force, to apply to the competent court for a decision for the tracing, freezing or seizure of funds, property and related earnings connected with money-laundering offences. The court shall rule on the request expeditiously.

The request for the freezing or seizure of funds issued by the requesting foreign authorities must reasonably substantiate that there exist sufficient grounds for taking such measures and that the funds or property in question will be subject to confiscation. In such cases the request must contain the following information:

1. A precise description of the requested measures;

2. A certified true copy of the judgement and a statement of the grounds on which it is based, if they are not set forth in the judgement itself;

3. A certificate to the effect that the judgement is final and not subject to appeal;

4. A statement of the bounds within which the judgement is to be executed.

It is clear that the legal texts referred to above include statutory measures for the tracing, freezing and confiscation of funds derived from money-laundering and related offences, including terrorist offences.

Act No. 35 of 2003 considers the offences provided for in Act No. 24 of 1998, as amended, relating to kidnapping, hijacking and armed interception, as money-laundering offences. They include the crimes of kidnapping, hijacking and armed interception; the looting of public or private property; the abduction of persons, including any and all individuals charged with combating crimes of kidnapping, hijacking, armed interception or looting, their spouses or any of the ascendants or descendents; the hijacking of land, sea or air transport means; the taking of hostages; and the receipt, by any person or persons, of funds from a foreign State, gang or organization for the purpose of hijacking, kidnapping or hostage-taking.

It should be mentioned that a decision has been adopted on the establishment of the Counter-Terrorism and Anti-Money-Laundering Department, placed under the Ministry of the Interior.

Response to paragraph 1.5

Preparations have been made for the drafting of bilateral cooperation agreements on security with a number of States and negotiations and discussions are currently under way with a view to their signature. The States include the United Kingdom of Great Britain and Northern Ireland, Italy, Germany, France, Pakistan and Turkey. The Republic of Yemen has therefore resolved to take a number of steps for the promulgation of domestic legislation that will help to combat terrorism, including a draft act for the extradition of offenders and its submission to the legislative branch in order that the procedures laid down in the Constitution may be carried out.

Response to paragraph 1.6

Yemen offers assistance with regard to investigations, the service of process, the execution of judicial decisions, letters rogatory and the extradition of offenders whenever so requested by States to which Yemen is bound by judicial cooperation agreements or other States on the basis of the principle of reciprocity. Yemen has, for example, a treaty on mutual judicial assistance with Djibouti. As to the modalities of Yemen's dealings with States to which it is not bound by any bilateral treaty, such dealings will be based on international law, the resolutions of international legitimacy and the relevant resolutions of the Security Council as the instrumentality to which the achievement of international peace and security has been entrusted. The Republic of Yemen has therefore decided to take a number of steps for the promulgation of domestic legislation that will help to combat terrorism, including the Extradition Act and its submission to the legislative branch in order that it may pass through the stages provided for in the Constitution.

Response to paragraph 1.7

Book Two, special part, chapter 1, of the Penal Code (Act No. 12 of 1994) on crimes and penalties, distinguishes crimes affecting the internal security of the State, including crimes characterized by public danger; crimes affecting the national economy; crimes affecting public office; crimes affecting the administration of justice; crimes of publicity and dissemination; beggary; counterfeiting of money, falsification of official stamps and seals; crimes committed against persons and the family; adultery; indecent assault; depravation; and crimes committed against property.

All the crimes referred to above are considered non-political offences; the Penal Code considers them ordinary offences.

Response to paragraph 1.8

The Republic of Yemen applies the principle "judicare" to any person, whether Yemeni or not, whose involvement in any terrorist offence has been established within Yemeni territory when it is the place of perpetration of the offence. Under its Constitution Yemen refuses to extradite any Yemeni national to any foreign authority. With respect to non-Yemeni persons or elements, it is bound by the provisions of Security Council resolution 1373 (2001) on international cooperation.

Response to paragraph 1.9

The border control force is in the process of being set up and its functions and mandate are being established so as to cover all the exit/entry points of the Republic of Yemen. It is in need of assistance and advice as well as the furnishing of adequate equipment to assist it in performing its functions.

In addition to its regular mandate, this special force has the following duties:

1. To safeguard the security and sovereignty of the Republic of Yemen in its territorial waters and exclusive economic zone and on its continental shelf and to guard its coasts, islands, harbours and seaports;

2. To combat smuggling, infiltration and illegal migration into and out of the territory of the Republic by sea;

3. To combat the smuggling of drugs and psychotropic substances and to seize the related contraband;

4. To combat the smuggling of goods, seize contraband goods and turn them over to the competent authorities;

5. To combat illegal fishing, seize the related catches and gather related evidence and turn it over to the competent authorities together with the seized goods;

6. To combat piracy at sea in the territorial waters of the Republic;

7. To maintain security and order in harbours and seaports;

8. To ascertain violations against the environment and combat marine pollution in its territorial waters and exclusive economic zone and on or above its continental shelf and to gather related evidence and turn it over to the competent authorities;

9. To observe vessel traffic in approved navigation lanes occurring in the territorial waters of the Republic and report any violations to the competent authorities;

10. To observe vessels and aircraft while they are in the territorial waters or the exclusive economic zone or above the continental shelf, record any violation of the laws, agreements or international treaties in force in the Republic and gather related evidence and turn it over to the competent authorities;

11. To answer calls for help, assistance and the saving of lives and vessels in cooperation with the official authorities competent in the international maritime search and rescue region assigned to the Republic;

12. To assist the competent authority in coping with any accident arising from maritime activities such as commercial transport, fishing, tourism or other activities in the territorial waters or the exclusive economic zone or above the continental shelf;

13. To report any hindrance to navigational traffic in international navigation lanes or channels and cooperate with the competent authorities in removing any obstacle related to the safety and security of navigation there;

14. To combat and curb crime on the seas of the Republic in accordance with the laws and international conventions in force so as to ensure stability, security and order.

Response to paragraph 1.10

The issuance of computerized passports provides considerable safeguards against tampering or falsification, inasmuch as such passports contain sets of technical and security data both visible and invisible to the naked eye. The data page, moreover, is coated in a manner that makes it impossible to effect any change in the particulars pertaining to the bearer of the passport without its being apparent, and permits of easy detection of any change. The photograph of the bearer of the passport becomes an inseparable part of the data page, the photograph being applied by a technical process (downloading from the picture-storing system to the data page). Moreover, the computerized passport is designed in such a way that pages cannot be removed or replaced without this being apparent and readily detectable.

Response to paragraph 1.11

Since the issuance of computerized passports in 1997 this has been achieved through the monitoring of issuance in such a way that it is impossible for a person to

obtain more than one valid passport. The monitoring process has been strengthened through the connection of all air, land and sea exit/entry points by means of a computer network. The passport is read by computer upon the arrival or departure of the bearer of the passport via any exit/entry point in the Republic of Yemen.

In addition, the computerized issuance of passport application forms prevents the passport applicant's picture attached to the form from being changed, and the appearance of the passport applicant before the examiner is guaranteed, due to the fact that photographing takes place at the passport issuing location.

Furthermore, no passport is issued by any issuing location within the country (department branches) or abroad (embassies or consulates) until the operation has been fed through the computer network main centre for review, examination and consultation of the blacklist and approval for issuance has been granted.

The nature of the information stored can be described as follows: (1) passport number; (2) passport type; (3) first name in Arabic; (4) second name in Arabic; (5) third name in Arabic; (6) surname in Arabic; (7) first name in Latin letters; (8) second name in Latin letters; (9) third name in Latin letters; (10) surname in Latin letters; (11) occupation; (12) country of birth; (13) governorate of birth in Arabic; (14) governorate of birth in Latin letters; (15) district of birth in Latin letters; (16) district of birth in Arabic; (17) date of birth; (18) sex; (19) date of issue; (20) expiration date; (21) issuing branch; (22) place of issue; (23) marital status; (24) telephone number; (25) date of form; (26) national identity number; (27) type of identity card; (28) identity card number; (29) place of issue; (30) date of issue; (31) social status; (32) colour of eyes; (33) colour of hair; (34) height; (35) remarks; (36) first name (of mother); (37) mother's second name; (38) third name (of mother); (39) mother's nationality; (40) address (street); (41) address (quarter); (42) address (city); (43) address (district/governorate); (44) address (governorate); (45) address (town); (46) place of work; (47) work address; (48) previous passport type; (49) previous passport number; (50) signature list indicator; (51) voucher number; (52) amount; (53) entry; (54) examiner + personal photograph.

The sole authority with which these data are shared is the office of the Minister of the Interior.

In the area of measures aimed at prohibiting the forgery and falsification of identification papers, the following steps have been taken:

- The use of the computer for issuing identity documents, as a first step. There also exists an integrated plan for expanding the use of the computer approach in all governorates;
- Total discontinuance of the issuance of manually produced cards within the jurisdiction of the municipal council of the capital, such cards being replaced by computerized cards;
- Extension of computerized issuance to approximately 10 governorates, with partial discontinuance of manual issuance in the capitals of those governorates;
- Project to provide computerized issuance systems in four other governorates (currently being carried out).

Response to paragraph 1.12

(i) Article 6 of part II (regulation of the bearing of firearms) of Act No. 40 of 1992 on the bearing of and trade in firearms and ammunition, and the related implementing regulation, issued by Republican Decree No. 1 of 1994, provides as follows:

> An application for a licence to bear arms must be submitted to the licensing authority. The application must state sufficient reasons and justification for the grant of the licence and, in particular, the bearing of a personal weapon must be necessitated by the applicant's political or social position or his work. The licensing authority shall have the right to assess whether or not the applicant is entitled to a licence.
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> Article 7 provides as follows:
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> The applicant for the licence shall fill in the special form prepared for that purpose and shall himself sign the statements contained therein.
>
> Regarding the legal right to purchase firearms, article 24 of the Act provides as follows:
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> The State alone shall have the right to import the various types of weapons and ammunition from abroad for defence and security purposes; such importation shall be effected by the competent authorities.

(ii) Article 9 of the above-mentioned Act No. 40 of 1992 provides as follows:

> The citizens of the Republic have the right to possess rifles, including automatic rifles, and revolvers and hunting guns which they need for their own use together with a quantity of related ammunition for the purpose of lawful defence.
>
> Concerning related exemptions and exceptions, article 22 of the aforementioned Act provides as follows:
>
> The following shall be exempted from the requirement to obtain a licence for the carrying of personal weapons referred to in article 10 of the present Act:
>
> 1. Former presidents and vice-presidents of the Republic;
> 2. Former members of the Presidential Council;
> 3. Present and former speakers of Parliament;
> 4. Present and former prime ministers and deputy prime ministers;
> 5. Present and former members of the Consultative Council (Majlis al-Shura);
> 6. Former members of the Presidium of the People's Supreme Council;
> 7. Present and former members of Parliament;
> 8. Present and former ministers and deputy ministers;
> 9. Present and former governors of governorates;
> 10. Government employees appointed by republican decree;
> 11. Present and former officers of the armed forces and the police;
> 12. Present and former men of the judiciary and members of the Office of the Public Prosecutor;

13. Members of the diplomatic and consular corps of States accredited to the Republic of Yemen on condition of reciprocity.

(iii) The response to the question in paragraph iii is contained in article 13 of Act No. 40 of 1992, which provides as follows:

> Licences are personal and are issued in the name of the person to whom they have been granted. They are restricted to the limits within which they have been granted. Under no circumstances may a licence be relinquished or transferred to another person, nor may the weapons covered by the licence be surrendered to another person before that person has himself obtained a licence therefor.

(iv) Article 17 of the aforementioned Act provides:

> Licences for the bearing of arms shall be valid for a period of three years and may be renewed. The licensing authority shall have the right to withdraw licences temporarily or to cancel them definitively before their expiry, provided that the decision in all such cases shall contain a statement of the related grounds, in accordance with the provisions of the present Act and its implementing regulation.

The responsibility for monitoring the validity and/or expiry of individual licences is entrusted to a specific body or mechanism. Article 2, paragraph 4, of the above-mentioned Act provides as follows:

> Licensing authority: the Minister or anyone delegated or empowered by him.

> Article 4 of the regulation for the implementation of the said Act provides as follows:

> A licence for the bearing of arms is an official document issued by the Ministry. It is extremely important and must be preserved and must be carried whenever the person bears his weapons.

Response to paragraph 1.13

> Article 49 of the Act regulating the bearing of firearms provides as follows:

> A. The confiscation of the weapons, weapon parts, ammunition and explosives used in committing the offence shall be ordered in all cases.

> B. Weapons, weapon parts, ammunition and explosives which are illegally brought into the territory of the Republic after the promulgation of the present Act or for which no licence has been issued by the competent authorities shall be confiscated administratively.

Moreover, article 5 of the general and final provisions of the regulation for the implementation of Act No. 40 of 1992 provides as follows:

> The ownership of all weapons, ammunition, explosives and any parts thereof or accessories thereto which are confiscated by reason of their being in violation of the provisions of the Act, the regulation or other laws or ordinances in force shall pass to the Ministry of the Interior and shall be entered in the registers kept specially for that purpose.

Response to paragraph 1.14

None exist.

2. Assistance and guidance

Response to paragraphs 2.1, 2.2, 2.3

Yemen has previously informed the Committee of the systems and equipment which it needs for combating terrorism.

Response to paragraph 2.4

The Central Bank is in constant contact with the International Monetary Fund and the World Bank and engages in ongoing coordination in the areas of combating money-laundering and the financing of terrorism. Nevertheless, the remarks made in the above-mentioned paragraph of the note of the Chairman of the Counter-Terrorism Committee will be borne in mind.

Response to paragraph 2.5

Account will be taken of the remarks made in this paragraph with regard to the Financial Intelligence Unit. It should be mentioned here that the Anti-Money-Laundering Committee began work in its sphere of competence immediately after its establishment pursuant to Council of Ministers resolution 102 of 2004.